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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PERE OBRADOR, DANIEL TRETTER,
and D. AMNON SILVERSTEIN

Appeal 2007-2945
Application 10/023,951
Technology Center 2600

Decided: March 31, 2008

Before ANITA PELLMAN GROSS, MAHSHID D. SAADAT, and SCOTT R. BOALICK, *Administrative Patent Judges*.

GROSS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the Examiner's Final Rejection of claims 1 through 15, 22, 23, 26, 27, and 29 through 49, which are all of the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

Appellants' invention relates to a method and apparatus for obtaining remote high resolution photographs selected from a streaming video which

may be low resolution. Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. A method for acquiring remote high resolution photographs by a user using a streaming video as a view-finder, comprising:

connecting a remote device to one or more photo-video acquisition devices individually comprising a camera, wherein the remote device is controlled by the user;

using a connected one of the cameras, generating a video of a scene viewed using the respective camera;

acquiring a high resolution photograph from the remote device using the video streamed from the one or more photo-video acquisition devices as a view-finder; and

processing and transmitting the video and the high resolution photograph obtained from the one or more photo-video acquisition devices.

The prior art references of record relied upon by the Examiner in rejecting the appealed claims are:

Suzuki	US 5,896,171	Apr. 20, 1999
Ramasubramanian	US 6,172,672 B1	Jan. 09, 2001
Mottur	US 2002/0018124 A1	Feb. 14, 2002 (filed Jul. 25, 2001)
Juen	US 2002/0024602 A1	Feb. 28, 2002 (filed Sep. 14, 2001)
Dietz	US 6,591,068 B1	Jul. 08, 2003 (filed Oct. 16, 2000)

Claims 1 through 15, 22, 23, 26, 27, 29 through 31, 33 through 35, 37, 39, 42, and 46 stand rejected under 35 U.S.C. § 103 as being unpatentable over Mottur in view of Ramasubramanian.

Claim 32 stands rejected under 35 U.S.C. § 103 as being unpatentable over Mottur in view of Ramasubramanian and Dietz.[1]

Claims 38, 40, 41, 43, 44, and 47 through 49 stand rejected under 35 U.S.C. § 103 as being unpatentable over Mottur in view of Ramasubramanian and Juen.

Claims 36 and 45 stand rejected under 35 U.S.C. § 103 as being unpatentable over Mottur in view of Ramasubramanian and Suzuki.

We refer to the Examiner's Answer (mailed December 15, 2006) and to Appellants' Brief (filed October 2, 2006) and Reply Brief (filed February 15, 2007) for the respective arguments.

SUMMARY OF DECISION

As a consequence of our review, we will affirm the obviousness rejections of claims 1 through 15, 22, 23, 26, 27, 29 through 35, 37 through 44, and 46 through 49 but reverse the obviousness rejection of claims 36 and 45.

OPINION

The Examiner asserts (Ans. 3) that Mottur fails to disclose capturing a still frame of video that is being watched and transmitting a high-resolution image of the still frame. The Examiner further asserts (Ans. 3-4) that Ramasubramanian teaches "that it is advantageous when transmitting video

[1] We note that Appellants do not separately argue the addition of Dietz to the primary combination of Mottur and Ramasubramanian and, in fact, group claim 32 with claims rejected over only Mottur and Ramasubramanian (*see* App. Br. 13-14). Accordingly, we will treat claim 32 as falling with claim 30, from which 32 depends.

over a limited bandwidth communication medium to enable users with a snapshot feature that allows a user to specify a desired frame of video data and receive a greater resolution image." Appellants contend (App. Br. 6-10) that there is no motivation to combine Mottur and Ramasubramanian. Specifically, Appellants contend (App. Br. 7-10 and 16-17) that Mottur discloses high resolution video data and transmitting uncompressed audio and video data using high bandwidth. Therefore, Appellants contend (App. Br. 8) that "the solution of Ramasubramanian to provide a higher resolution snapshot [from low resolution video] do[es] not exist in the high bandwidth, high definition arrangements of Mottur." Appellants repeat this argument in the Reply Brief at pages 1-2. Further, Appellants contend (App. Br. 8 and 11-15 and Reply Br. 2-6) that there is no motivation to modify Mottur, which is directed to live video, with Ramasubramanian's teachings, since Ramasubramanian's video is previously stored. Last, Appellants contend (App. Br. 10 and Reply Br. 3-4) that there is no proper motivation to combine because the problem solved by Ramasubramanian is not discussed by Mottur. The first issue before us, therefore, is whether the Examiner has provided proper motivation for modifying Mottur with the teachings of Ramasubramanian.

Mottur discloses (paragraph 0023) that the cameras "can distribute *compressed or* uncompressed audio-video data for broadcast in a format that *can include* ... high definition digital television" (emphasis ours). Thus, Mottur is not limited to uncompressed high definition video. Further, Mottur discloses (paragraph 0028) that the data from the cameras "can be multiplexed and provide for *lower bandwidth video* that can be viewed on conventional internet devices" (emphasis ours). Thus, Mottur includes an

embodiment of low bandwidth video. Further, Mottur discloses (paragraph 0059) that the video transmission can be for viewing live performances.

Ramasubramanian discloses (col. 2, ll. 6-37) that while viewing a performance, a viewer sometimes wants a snapshot of a particular event. However, the quality of the snapshot would be low if dictated by the low bandwidth between the video server and the client. Accordingly, Ramasubramanian teaches (col. 5, ll. 34-41), in response to selection of a frame of video by the user, transmitting the selected snapshot without compression such that it has higher resolution and quality than the same frame during the video. We agree with the Examiner that it would have been obvious, in view of Ramasubramanian, to send a snapshot with high resolution when viewing a lower bandwidth video in Mottur to capture, with good quality, a particular event during a performance, despite the low bandwidth of the video.

As for the video being prerecorded in Ramasubramanian, we find that the suggestion to select a frame from a video transmitted with low bandwidth and transmit the snapshot with high resolution is not limited to prerecorded video. We find nothing in the disclosure of Ramasubramanian that would preclude applying the teachings to a live feed of video with low bandwidth.

In addition, there is no requirement that the problem solved by the secondary reference be discussed by the primary reference to apply the teachings of the secondary reference in a rejection under 35 U.S.C. § 103. The Supreme Court has held that in analyzing the obviousness of combining elements, a court need not find specific teachings, but rather may consider "the background knowledge possessed by a person having ordinary skill in

the art" and "the inferences and creative steps that a person of ordinary skill in the art would employ." *See KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1740-41 (2007). To be nonobvious, an improvement must be "more than the predictable use of prior art elements according to their established functions," and the basis for an obviousness rejection must include an "articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*

The Examiner has found actual teachings in the prior art and has provided a rationale for the combination. Further, the teachings suggest that the combination involves the predictable use of prior art elements according to their established functions. Accordingly, we find that the Examiner has provided sufficient motivation for modifying Mottur with the teachings of Ramasubramanian, and we will sustain the obviousness rejection of claims 1 through 15, 22, 23, 26, 29 through 35, 37, 39, 42, and 46.

With respect to claim 27, Appellants contend (App. Br. 15-16) that Ramasubramanian discloses transmitting snapshots of data which was previously generated and stored and, therefore, that the combination proposed by the Examiner fails to suggest the claim limitation of "storing the video and high resolution photograph for a first time after the generating the video and the transmitting of the video and the high resolution photograph." However, since Ramasubramanian suggests selecting a frame of video being viewed and transmitting a snapshot of that frame, and Mottur discloses viewing the video live, the combination would include viewing the video and transmitting the snapshot before storing the video and the snapshot. In other words, in the combination of Mottur and Ramasubramanian proposed by the Examiner, the video and snapshot would be stored for the first time

after generating the video and transmitting the video and the snapshot. Consequently, we will sustain the obviousness rejection of claim 27.

The Examiner (Ans. 23) asserts that Suzuki teaches "it is advantageous to use two different physical medium (wires) to communicate video and control commands in order to prevent cross talk between the video signal and the control signals in order to improve image quality." Appellants contend (Reply Br. 8) that Suzuki fails to provide the requisite teachings for the additional limitations of claims 36 and 45. Specifically, Appellants contend that Suzuki discloses that timing the transmission of control data during non-video periods reduces crosstalk, not that transmission of video on a cable different from the cable that carries the control data decreases crosstalk and improves video signal. The next issue, therefore, is whether Suzuki teaches communicating control data on a separate physical media from the video and photograph, as recited in claims 36 and 45.

We agree with Appellants that the Examiner has misinterpreted the teachings of Suzuki. Suzuki clearly discloses (col. 5, ll. 1-14) that all control data should be transmitted during a non-video period of time, such as during a vertical blanking period, to prevent the control data from causing crosstalk. In other words, contrary to the Examiner's assertions, Suzuki does not disclose communicating control data on a separate physical media from the video and the photograph. Thus, the Examiner has failed to establish a prima facie case of obviousness for claims 36 and 45, and we cannot sustain the obviousness rejection of claims 36 and 45.

Regarding claims 38, 40, 41, 43, 44, and 47 through 49, the Examiner asserts (Ans. 16-17) that the primary combination fails to teach capturing the

still image at the same time the low resolution video is being generated. The Examiner asserts that Juen uses a camera to capture a high resolution video and save each high resolution frame as high resolution still images. Appellants contend (App. Br. 19-20 and 21) that Ramasubramanian teaches away from the combination since the video is previously stored before the photograph is produced. The last issue, therefore, is whether the combined references teach or suggest producing a high resolution photograph at the same time as generating the video for the first time.

As indicated *supra*, Ramasubramanian suggests producing a snapshot while watching a video. Mottur discloses watching a live performance as a video. Therefore, the combined teachings suggest producing a high resolution photograph at the same time as generating the video for the first time. The teachings of Juen are, therefore, merely cumulative to the combined teachings of Mottur and Ramasubramanian. Accordingly, we will sustain the obviousness rejection of claims 38, 40, 41, 43, 44, and 47 through 49 over Mottur, Ramasubramanian, and Juen.

ORDER

The decision of the Examiner rejecting claims 1 through 15, 22, 23, 26, 27, and 29 through 49 under 35 U.S.C. § 103 is affirmed as to claims 1 through 15, 22, 23, 26, 27, 29 through 35, 37 through 44, and 46 through 49 but reversed as to claims 36 and 45.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

gvw

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